

the Secretary no later than 45 days following payment of a default claim to the lender, which must take place no earlier than 90 days following default in the case of a loan payable in monthly installments, or no earlier than 30 days following default, in the case of a loan payable in less frequent installments;

(10) The loan was legally enforceable by the lender when the agency paid a claim on the loan to the lender;

(11) The agency exercised due diligence in collection of the loan in accordance with § 682.410(b)(6) or (7);

(12) The agency and lender complied with all other Federal requirements with respect to the loan including the payment of origination fees and compliance with all preclaims assistance requirements in § 682.404(a)(2)(ii);

(13) The agency assigns the loan to the Secretary, if so directed, in accordance with the requirements of § 682.409; and

(14) The guaranty agency certifies to the Secretary that diligent attempts have been made by the lender and the guaranty agency under § 682.411(g) to locate the borrower through the use of reasonable skip-tracing techniques.

(b) Notwithstanding paragraph (a) of this section, the Secretary may waive his right to refuse to make or require repayment of a reinsurance payment if, in the Secretary's judgment, the best interests of the United States so require. The Secretary's waiver policy for violations of paragraph (a)(3) or (a)(5) of this section is set forth in appendix D to this part.

(Approved by the Office of Management and Budget under control number 1840-0538)

(Authority: 20 U.S.C. 1078, 1078-1, 1078-2, 1078-3, 1082)

[57 FR 60323, Dec. 18, 1992, as amended at 58 FR 9119, Feb. 19, 1993; 59 FR 25746, May 17, 1994; 59 FR 33356, June 28, 1994; 59 FR 61429, Nov. 30, 1994; 61 FR 60486, Nov. 27, 1996]

#### § 682.407 [Reserved]

#### § 682.408 Loan disbursement through an escrow agent.

(a) *General.* (1) A guaranty agency or an eligible lender may act as an escrow agent for the purpose of receiving Stafford, SLS, and PLUS loan proceeds dis-

bursed by an eligible lender other than a school, State lender, or a State agency or instrumentality, and transmitting those proceeds to the borrower's school if the lender and the escrow agent have entered into a written agreement for this purpose.

(2) The agreement must provide that—

(i) The lender may make payments into an escrow account that is administered by the escrow agent in accordance with the requirements of paragraph (c) of this section and § 682.207(b)(1)(iv);

(ii) The lender shall promptly notify the borrower's school when funds are escrowed for the borrower; and

(iii) The escrow agent is authorized to—

(A) Transmit the proceeds according to the note evidencing the loan;

(B) Commingle the proceeds of the loans paid to it pursuant to an escrow agreement;

(C) Invest the loan proceeds only in obligations of the Federal Government or obligations that are insured or guaranteed by the Federal Government; and

(D) Retain for its own use interest or other earnings on those investments.

(b) *Disbursement by the lender.* Subject to § 682.207(b)(1)(iii), the lender may disburse the loan proceeds to the escrow agent using any method agreed to by the escrow agent and the lender.

(c) *Transmittal of FFEL loan proceeds by the escrow agent.* (1) The escrow agent shall transmit Stafford and SLS loan proceeds received from a lender under this section to a school in accordance with the requirements of § 682.207(b)(1)(ii) and (iv) not later than 21 days after the agent receives the funds from the lender.

(2) The escrow agent shall transmit PLUS loan proceeds received from a lender under this section to a borrower in accordance with the requirements of § 682.207(b)(1)(ii) and (iv) not later than 21 days after the agent receives the funds from the lender.

(d) *Return of untransmitted proceeds.* The escrow agent shall return any untransmitted proceeds of a loan to the lender within 15 working days after receiving information indicating that the student has not enrolled, or has ceased to be enrolled on at least a half-time